IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 18TH JANUARY 2007 / 28TH PAUSHA 1928

WP(C).No. 1430 of 2007(T)

PETITIONER:

S.UNNIKRISHNAN, FOREST RANGE OFFICER,
SOCIAL FORESTRY, KATTAPPANA, IDUKKI.

BY ADV. SRI.B.S.SWATHY KUMAR
SRI.K.G.RENGANATH

RESPONDENTS:

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1. STATE OF KERALA, REP. BY THE
SECRETARY TO GOVERNMENT, FOREST & WILD LIFE
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE CHIEF CONSERVATOR OF FOREST,
ADMINISTRATION, FOREST HEADQUARTERS,
THIRUVANANTHAPURAM.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.1430 of 2007

Dated this the 18th day of January, 2007

JUDGMENT

The petitioner is holding the post of Forest Range Officer. Going by the seniority, he can legitimately aspire for promotion to the post of Assistant Conservator of Forest. The petitioner would contend that his turn for promotion had reached sometime in 2005, but on account of disciplinary proceedings initiated against him in connection with the theft of `thondi' articles from the strong room attached to the forest complex, his case was not considered for promotion. Investigation into the above crime was conducted by the Central Bureau of investigation. Ext.P1 is the final report drawn up by the CBI in Crime No. RC 16/2/04 in connection with the above incident. There are as many as 17 accused charge sheeted by the CBI. The petitioner is not an accused. He is not there in the array of the accused in Ext.P1. Senior advocate appearing for the petitioner submits that he is included in the list of witnesses.

2. Based on Ext.P1, the petitioner is right in his contention that his claim for promotion cannot be denied on the ground of pendency of criminal proceedings against him, because no such criminal proceedings are pending against him. However, there is yet another

proceedings evidenced by Ext.P2 initiated against the petitioner. Ext.P2 is a memo of charge issued by the Government alleging certain official lapses on his part and calling upon him to submit his written statement of defence. The petitioner filed Ext.P3 explanation in reply to Ext.P2 on 7.2.2006. Reliance is placed on Ext.P4 communication sent by the second respondent to the first respondent in relation to the above charges holding that the allegations levelled against the petitioner as per Ext.P2 are not serious, and that at the worst, it may amount to supervisory lapses and having regard to the fact that the petitioner had been under suspension for quite sometime, the entire proceedings can be dropped.

3. It would appear that Ext.P4 is under the consideration of the Home department in the Government. The Government Pleader, on instructions, submits that the entire files are in circulation in the Home department and it would take some time for the Government to take a final decision on Ext.P4.

4. Learned senior advocate for the petitioner submits that though the Departmental Promotion Committee is duty bound to consider the case of the petitioner and assess his suitability for inclusion in the select list for the post of Assistant Conservator of Forests, the respondents are likely to deny appropriate rank to the

petitioner in the select list that is likely come out consequent on the meeting of the DPC and to deny actual promotion to him pointing out Ext.P2 proceedings.

5. In the above circumstances, the petitioner has sought for directions to the first respondent to take final decision pursuant to Exts.P2, P3 and P4, so that, the Departmental Promotion Committee will be in a position to assign appropriate rank to the petitioner. The first respondent, in turn, will be in a position to give the petitioner his due promotion.

6. Government Pleader, on instructions, submits that decision will be taken on Ext.P4, as expeditiously as possible. It is, however, stated that if the decision of the Government is to proceed further with the matter, a larger time may be necessary.

7. I think the question as to whether further proceedings will be necessary would depend upon the decision of the Government after taking into consideration the charges framed as per Ext.P2, the explanation offered by the petitioner as per Ext.P3 and the opinion expressed by the second respondent as per Ext.P4. The decision of the Government shall be based on all these records and any other material relevant in the circumstances. Government shall complete the above exercise within a maximum period of one month.

5. This writ petition is disposed of directing the first respondent to do the needful and take appropriate decision, as stated above, within one month from today. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first respondent for information and compliance.

K.K.DENESAN, JUDGE

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